IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 3RD JANUARY 2007 / 13TH POUSHA 1928

WP(C).No. 32500 of 2006(R)

CC.896/2002 of J.M.F.C.,PARAVUR

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PETITIONER:

T.N.GIRI,
AGED 54 YEARS,
S/O.NARAYANAN, THATTIL HOUSE, NATTIKA P.O.,
THRISSUR.

BY ADV. SRI.SHOBY K.FRANCIS

RESPONDENTS:

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1. SUPERINTENDENT OF POLICE,
ALUVA-RURAL, ERNAKULAM DISTRICT.

2. SUB INSPECTOR OF POLICE,
N.PARAVOOR POLICE STATION,
N.PARAVOOR, ERNAKULAM DITRICT.

ADDL.R3. BIJU K.V., AGED 35 YEARS,
S/O.VARGHEESE, MANAGER,
MALABAR FINANCIAL ENTERPRISES,
KANJIRASSERY HOUSE, P.O.KOTTAMURY, THRISSUR.

(ADDL.R3 IS IMPLEADED AS PER ORDER IN I.A.NO.17842/06 DATED 03/01/2007)

BY ADV. SRI.RAJIV NAMBISAN
ADV.SRI.RAJESH VIJAYAN FOR ADDL.R3
GOVERNMENT PLEADER SRI.GIKKU JACOB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R.BASANT, J

W.P.C.No.32500 of 2006

Dated this the 3rd day of January 2007

JUDGMENT

The grievance of the petitioner is that inspite of specific orders issued by this court in Crl.M.C.No.1605/06 on 23/08/2006, the learned Magistrate is not effectively implementing the directions in the said order. The report of the learned Magistrate was called for. The report shows that the learned Magistrate is taking steps to comply with the order. In the meantime, the additional third respondent has entered appearance.

2. The vehicle was released by the learned Magistrate, subject to conditions, to the additional third respondent. When the learned Magistrate directs the additional third respondent to produce the vehicle before the court, the additional third respondent has got to comply with the same. If he does not comply with the said directions, the learned Magistrate must take necessary coercive steps to seize the vehicle and get it produced before court. Appropriate action can be taken against the additional third respondent and the sureties also.

3. The report of the learned Magistrate shows that the petitioner has not filed any application for release of the vehicle to him. The learned counsel for the petitioner submits that such application was not filed as the presence of the vehicle before the court was not secured by the learned Magistrate. The learned counsel for the petitioner undertakes to file such an application immediately even if the vehicle is not produced. The petitioner shall be at liberty to file such an application. Such application shall be filed within ten days from this date - on or before 15/01/2007.

4. The learned counsel for the additional third respondent prays for a months time to produce the vehicle before the learned Magistrate. I find absolutely no merit or substance in the said prayer. However, I grant the additional third respondent time till 15/01/2007 to produce the vehicle before the learned Magistrate.

5. This writ petition is in these circumstances allowed in part. The additional third respondent is granted time till 15/01/2007 to produce the vehicle before the learned Magistrate. If he does not produce the vehicle before the

learned Magistrate, as directed, the learned Magistrate shall forthwith take necessary steps to seize the vehicle and get the same produced before the court by the police. In that event, necessary steps shall be taken against the additional third respondent and the sureties who had executed the bonds when the vehicle was released to the additional third respondent. The learned Magistrate shall consider the petitioner's application for release of the vehicle to him along with the claim of the additional third respondent and pass appropriate orders as expeditiously as possible - at any rate within a period of three weeks from 15/01/2007.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006